



County of Los Angeles CHIEF EXECUTIVE OFFICE

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April 21, 2011

To: All Department Heads

From: William T Fujioka
Chief Executive Officer

Wendy L. Watanabe
Auditor-Controller

Lisa M. Garrett
Director of Personnel

GUIDELINES FOR ADMINISTRATIVE INVESTIGATIONS UPDATE

This memo provides updated guidelines for administrative investigations concerning suspected employee misconduct and fraud. These guidelines summarize Chapter 15 of the County Fiscal Manual (CFM), Employee Misconduct, and supplement the CFM by addressing video and/or audio surveillance.

In accordance with CFM 15.2.0, departments are responsible for reporting all allegations of misconduct or fraud by employees or County contractors and vendors to the Auditor-Controller (A-C) Office of County Investigations (OCI). Examples of misconduct or fraud include, but are not limited to: theft of County resources including cash or equipment, embezzlement, personal use of County equipment or resources, work hour abuse, and misuse of technology resources (computers, Internet and/or email access, etc.). Other complaints such as performance or behavioral issues, discrimination, harassment, etc., may be addressed by the Department of Human Resources (DHR) or the Office of Affirmative Action and Compliance (OAAC). Attached is a list for common problems and the corresponding agency to be contacted. Departments should contact OCI if it is questionable whether an employee's activity rises to the level of misconduct or fraud.

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General Investigations

To ensure proper handling of allegations of misconduct or fraud, departments are instructed:

- **NOT** to investigate the matter;
- **NOT** to contact any employee or other individual(s) under suspicion; and
- **NOT** to disturb or otherwise compromise any physical evidence.

OCI will advise departments on the specific course of action to be taken upon receiving notification of misconduct or fraud. When dealing with employees who are under investigation, departments should follow the advice of County Counsel, DHR and OCI when considering options such as reassignment, suspension, or discharge.

Video Surveillance Taping

To ensure employees' rights are preserved and to mitigate legal liability to the County, departments should never undertake any type of video/audio surveillance unless authorized by the A-C in advance. The A-C will identify privacy issues and will consult with County Counsel or the District Attorney, as needed. The A-C will establish parameters on the use of taping equipment (how, where, and when taping should be done). The A-C will approve a video surveillance plan and will supervise or monitor any type of surveillance taping.

In general, video taping (no sound) in public locations is acceptable and will need to be reviewed and approved on a case-by-case basis. Departments must provide the following list of information to OCI as part of any request to authorize video surveillance (no sound) taping:

- Specific complaint under investigation;
- Justification for video surveillance (why no other investigative methods will work);
- Location (provide a specific description, e.g. diagrams, photos, etc.);
- Specific time and duration taping needs to be done;
- What activities should normally be occurring in the location to be taped; and
- Which employees might use the location to be taped.

Video taping in rooms with a clear expectation of privacy (such as restrooms) may only be authorized by a court order.

Audio Taping

Audio taping (i.e., audio in conjunction with video recording, taping of personal or telephone conversations, etc.) has more stringent requirements governed by federal and State laws and is prohibited in administrative investigations. All audio taping must be authorized in advance by court order.

Criminal Investigations

Board Policy #9.040 designates the A-C, District Attorney, and the Sheriff as the only three County agencies with the authority to investigate criminal activity related to County employees' job-related duties. However, departments with employees who have Peace Officer status (e.g., Sheriff Deputies, Probation Officers, District Attorney Investigators, etc.) have legal authority to conduct investigations of their personnel. All other suspected criminal activities by County employees should be reported immediately to OCI.

Other Investigations of Employee Misconduct

Department of Human Resources

The Department of Human Resources is responsible for the investigation claims of retaliation which have resulted from employee "whistle blowing" regarding fraud, waste, or misuse of County resources. Departments are responsible for reporting such allegations to the DHR Director of Personnel.

DHR is also responsible for exercising general supervision over the enforcement of the Civil Service Rules and policies, procedures, and guidelines relating to the County's personnel system. As such, DHR is responsible for investigating claims alleging violation of personnel matters. Depending on the specific allegations, complaints pertaining to improper personnel practices, exam improprieties, inappropriate appointments, and preferential treatment may be investigated by DHR. If it is determined that the allegations would be more appropriately addressed internally, the complaint will be referred to the subject department. Departments should contact DHR for assistance in determining whether specific employee behavior meets the criteria of misconduct.

Office of Affirmative Action Compliance

The Office of Affirmative Action Compliance is responsible for investigating complaints of employment discrimination, harassment, and retaliation pertaining to protected

groups, such as race, color, national origin, ancestry, sex, sexual orientation, religion, age, disability, medical condition, and marital status. OAAC is also responsible for investigating claims of retaliation for filing a previous complaint of employment discrimination.

Chief Executive Officer

The Chief Executive Officer is responsible for investigating complaints of workers' compensation fraud.

Training

A-C and DHR have identified three primary ways for departments to receive training on how to conduct personnel investigations:

- A-C and DHR will provide high-level training/briefings for Department Heads, Chief Deputies, Administrative Deputies, and Departmental Human Resources Managers (or other compliance officer positions) at the May/June 2011, monthly meetings of these groups.
- A-C will add a video surveillance component to its fraud awareness training that is currently offered to supervisors and managers. This training focuses on "red flags" of fraud, reporting requirements, and other related topics.
- A-C is establishing a Countywide Investigator Network which will hold periodic meetings to coordinate with designated investigative staff with the goal of improving the quality of and standardizing approaches to investigations. A-C has identified approximately 200 employees so far that will be included in this group. The first meeting is slated to be held in June 2011, and will include video and audio taping as a specific topic at that meeting.

References

- County Fiscal Manual Chapter 15 – Employee Misconduct
- Board Policy #6.101 – Use of Information Technology (IT) Resources (are for business use only – no privacy rights – County can monitor usage – refer to A-C for investigations of misuse of IT resources)
- Board Policy #6.104 – Use of Electronic Mail (e-mail) by County Employees
- Board Policy #6.105 – Internet Usage
- Board Policy #6.109 – Security Incident Reporting

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- Board Policy #9.040 – Investigations of Possible Criminal Activity within County Government (only the Sheriff, District Attorney, and A-C can investigate criminal activity)
- County Code Section 5.02.060 – Retaliation for Reporting Fraud, Waste, or Misuse of County Resources Prohibited (retaliation due to whistle blowing)
- County Code Section 5.08.020 – Director of Personnel and Affirmative Action Compliance Officer Responsibility and Authority
- Policies, Procedures, and Guidelines #910 - Employee Cooperation in the Administrative Investigation and Hearing Processes

If you have any questions or need additional information, please contact Wendy L. Watanabe, Auditor-Controller, at (213) 974-8302 or Lisa M. Garrett, Director of Personnel, at (213) 974-2406.

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Attachment

c: Administrative Deputies
Chief Deputies
Departmental Human Resources Managers

K:\Letters To Department Heads, Word\04.21.11 Guidelines For Administrative Investigations Update.Docx

**LIST OF COMMON EMPLOYEE, CONTRACTOR AND VENDOR MISCONDUCT
AND INVESTIGATIVE AGENCY**

Common employee, contractor, and vendor misconduct	Investigating Agency
Fraud, theft of County resources, embezzlement, vendor/contractor improprieties	Auditor-Controller
Abuse of work hours: <ul style="list-style-type: none"> • Timecard fraud • Conducting personal business during work hours 	Auditor-Controller
Misuse of County equipment: <ul style="list-style-type: none"> • Personal use of telephones, cell phones, copiers, etc. 	Auditor-Controller
Misuse of information technology resources: <ul style="list-style-type: none"> • Personal use of computers, abuse of email and Internet access, etc. • Viewing pornography or other inappropriate material 	Auditor-Controller
Human Resources issues: <ul style="list-style-type: none"> • Performance and behavioral issues • Improper personnel practices • Inappropriate bonus issuance • Examination improprieties • Inappropriate appointments • Preferential treatment • Retaliation due to whistle blowing 	Department of Human Resources

Discrimination, American Disabilities Act violations, and other Affirmative Action issues	Department of Human Resources/ Office of Affirmative Action Compliance
Workers' Compensation fraud	Chief Executive Office - Risk Management
Workplace threats	Sheriff - Office of Security Management